

INTERNAL REVENUE SERVICE
District Director

Department of the Treasury

915 Second Avenue, MSW 510
Seattle, Washington 98174

Date: JUN 02 1999

Employer Identification Number: [REDACTED]

Case Number: [REDACTED]

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Dear Applicant:

We have considered your application as described in section 501(c)(3) of the Internal Revenue Code.

...ral income tax as an organization

FACTS:

The information submitted shows that you were incorporated under [REDACTED]

The application indicates that the purpose of the organization is to promote the continued education home study of the Holy Bible and Christianity.

A [REDACTED] has been developed whereby "students" complete bible lessons and send the workpapers back to the [REDACTED]. Upon completion of [REDACTED] and a commitment to tithe to the organization, the student receives a certificate of completion, \$2 [REDACTED] (hours x \$ [REDACTED] hour) in [REDACTED] and a photograph. Failure by the student to commit to tithe to the organization will not result in acknowledgement of study completion, the incentive or the complimentary art. The organization plans to help other Christian organizations initiate similar programs. Provider numbers will be issued for tracking purposes. A fee/donation for the use of the organization's program is anticipated.

The organization activities are based out of the corporate [REDACTED] (P [REDACTED] home which also features an "art gallery" of [REDACTED]. [REDACTED] intends to use organization assets to "pay off the mortgages and do some restoration on the building." The financial data for the year 2000 projects \$ [REDACTED] for the occupancy expense.

[REDACTED] is currently writing a book to be entitled "[REDACTED]". The organization is paying the associated expenses for the book development. [REDACTED] pledging to commit [REDACTED] of the proceeds of book sales to the organization.

The organization bylaws (Article 3, section 5) allow for Directors of the organization to be "paid \$ [REDACTED] per hour plus [REDACTED] % of all income that they personally solicit for the foundation's support." The Articles of Incorporation list [REDACTED] Directors, including [REDACTED] and her spouse, [REDACTED].

[REDACTED] and [REDACTED] are substantial contributors (tithes) to the organization.

The organization intends to hire an Assistant Director to attend to daily business as well as to provide [REDACTED] with the home care that he requires. The organization had been paying for [REDACTED] adult day care at the "[REDACTED]". [REDACTED] increased his monthly tithe to the organization to offset the organization's expenses on his behalf.

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A loan was arranged by the organization for the benefit of a third party individual (to start a business) on the promise that the loan would be repaid and that the organization would benefit from tithing from the business' profits. [REDACTED] committed the organization to being responsible for the repayment should the business default. (Payment would be made through the foundation from tithes from [REDACTED].) The business has defaulted on repayment.

ISSUE:

Does the organization qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code?

LAW:

Section 501(c)(3) of the Internal Revenue Code describes certain organizations exempt from income tax under section 501(a) and reads in part as follows:

" (3) Corporations, and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including publishing or distribution of statement), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1(a)(1) of the income tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such sections. If any organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(d)(2) defines "charitable" to include the relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of Government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and discrimination; (iii) to defend human and civil rights secured by law; or (iv) to combat community deterioration and juvenile delinquency.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or part to the benefit of private shareholders or individuals.

Similarly, section 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more of the exempt purposes unless it serves a public rather than a private interest. An organization must establish that it is not organized or operated for the benefit of

private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

ANALYSIS:

Preceding Code sections and Regulation sections describe the criteria under which an organization may be exempt under section 501(c)(3) of the Internal Revenue Code. They also describe the basis for which organizations are denied exemption because they were not organized and operated exclusively for section 501(c)(3) purposes.

The organization does not appear to be serving an exempt purpose as there exists a substantial amount of private benefit. The following uses of organization funds constitute the promotion of a private interest:

- ♦ The payment of the mortgage and remodeling costs of the corporate officer's home.
- ♦ The payment of expenses of developing and publishing the corporate officer's book.
- ♦ The basis of the Directors' compensation being a percentage of the funds raised by the individual with no limit applied.
- ♦ The hiring of an Assistant Director to provide a corporate officer with adult day care.
- ♦ The payment of expenses for an officer related to his daily care (adult care center and other expenses).

The organization engages in activities specifically to promote the act of tithing by individuals to the organization. The promotion of tithing to the organization as a charitable purpose is not established given the organization's requirement that an individual tithe in order to receive from the organization.

In addition, the tithing by officers (██████████ and ██████████) could be considered the assignment of income to the organization since the contributions are used to pay the personal expenses of these officers.

CONCLUSION:

It is the opinion of the Internal Revenue Service, based on the information submitted, that you do not meet the requirements for exemption as a charitable organization described in section 501(c)(3) of the Internal Revenue Code because you are not organized and operated exclusively for purposes within section 501(c)(3).

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement, Form 6018 (Consent to Proposed Adverse Action). Please note the instructions for signing on the reverse side of the form.

If you do not agree with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law and any other information to support your position, as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination.

INTERNAL REVENUE SERVICE
District Director

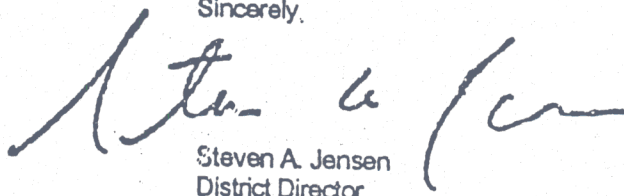
Department of the Treasury

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Section 7428(b)(2) of the Internal Revenue Code provides in part that "declaratory judgment of decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,



Steven A. Jensen
District Director

Enclosure:
Publication 892
Form 6018
Envelope

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare In
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

☒ Denial of exemption

☐ Revocation of exemption, effective

☐ Modification of exempt status from section 501(c)() to 501(c)(), effective

☐ Classification as a private foundation (section 509(a)), effective

☐ Classification as a non-operating foundation (section 4942(j)(3)), effective

☐ Classification as an organization described in section 509(a)(), effective

☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date